

REMARKS

Claims 52-70 were pending and remain pending after amendment of the claims in response to the office action of December 21, 2005. The term “myoblasts” has been added to claims 52, 57, and 61. This term is supported by the specification throughout, for example on page 1, line 3 “using myoblast transfer therapy.” The term “chondroitin sulfate” added to claim 61 is supported throughout, for example on line 18 of page 14 from the specification. Accordingly, new matter has not been added. Reconsideration and allowance earnestly are solicited.

Objection to the Specification

The Examiner’s suggestion to amend the specification on page 9 lines 18-22 has been followed. The referred to passage now states that “Myogenic cells, such as allogenic cells, can be obtained from a patient to be treated, from a relative, or from another human.”

Reconsideration is requested.

Claim Objections

Claims 52, 53, 61 and 62 were objected to over the recitation of “preparing pure in vitro culture.” In response, the indefinite article “a” has been added to claims 52 and 61. The definite article “the” has been added to claims 53 and 62.

Reconsideration is requested.

Claim Rejections – 35 USC 112

Claims 53 and 61-70 have been rejected on U.S.C. 112 written description grounds because these claims recite the term “satellite cell.” Applicant has followed the Examiner’s advice by inserting the term “myoblast” between “satellite” and “cells.”

Claim 61 and dependent claims stand rejected on written description grounds. Claim 61 has been amended to recite “by surgical implantation, in the presence of chondroitin sulfate.” Applicant notes that support for this claim comes from page 13, lines 11-13, which states that “the transduced cells also may be administered by surgical implantation....implanted in, for example, adipose tissue.” “Chondroitin sulfate” is described, for example, on page 14 line 18. Accordingly, written description is satisfied for the claim as amended. Reconsideration and allowance are solicited.

Claim Rejections – 35 USC 112

On page 5 of the office action, claims 52-60 are rejected on enablement grounds because “while being enabling for the method wherein myoblasts are the myogenic cells, (the specification) does not reasonably provide enablement for other types of myogenic cells, such as myotubes or muscle fibres.” The Examiner explains on page 6 that “myotubes or muscle fibers are useless for transplantation.” In response, applicant has amended these claims by replacing “myogenic cells” with “myoblasts.” Reconsideration and allowance are requested. .

On page 6, the Examiner rejects claims 61-70 for reciting “in a form that allows fusion with ...pre-existing ...fat cells.” This phrase has been deleted by amendment. Reconsideration and allowance are requested.

On page 7, the Examiner rejects claim 61-70 on indefiniteness grounds because claim 61 recites "the myogenic cells" and "the human patient." In response, antecedent basis for myoblasts has been added, "myogenic cells" has been deleted and "the human patient" has been deleted.

Reconsideration and allowance are solicited.

Entry of the claim amendments reconsideration and allowance of amended claims earnestly are requested. If a telephonic interview can facilitate disposition of this case, the Examiner cordially is requested to contact the undersigned attorney at 202-204-4728.

Respectfully submitted,

A handwritten signature in cursive script, reading "Marvin Motsenbocker".

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